

UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS
OFFICE OF THE CLERK
167 U.S. Courthouse
401 North Market
Wichita, Kansas 67202
Telephone: (316) 269-6486

NOTICE TO COUNSEL REGARDING YEAR 2003
STAY/DISMISSAL DOCKET AND MOTIONS DOCKET
CALENDARS AND INSTRUCTIONS
FOR NOTICING HEARINGS IN CASES
AT
WICHITA, KANSAS

Attached is the Year 2003 calendar established for non-evidentiary hearings before the Honorable Robert E. Nugent and the Honorable Janice Miller Karlin at Wichita, Kansas, pursuant to D. Kan. LBR 9013.2 of the Rules of Practice and Procedure for the United States Bankruptcy Court for the District of Kansas. **Motions or objections filed in cases assigned to either judge are to be scheduled for these docket dates in Room 150, U.S. Courthouse, 401 N. Market, Wichita, Kansas,** and must be noticed by counsel giving sufficient time to comply with the Bankruptcy Code, Fed. R. Bankr. P. 2002, and the Local Rules of Practice and Procedure. Motions which require additional noticing time under the Bankruptcy Code, Fed. R. Bankr. P. 2002, or the Local Rules of Practice and Procedure **must comply with such requirements.** Counsel may be required to re-notice any motion not in compliance with the rules. Instructions for scheduling motions under this rule and proposed sample forms for your use are also attached.

If counsel becomes aware that the hearing time will require more than fifteen (15) minutes, a written notice should be filed with the Clerk's office stating that additional time may be needed for the hearing; however, this will not delete the matter from the docket. The matter will be specially set for a future date if the Court finds it necessary. The stay and motions dockets are not designed for evidentiary hearings unless specifically granted by the Court.

Objection cut-off deadlines are included in the calendar. These deadlines (*with the exception of holidays*) are on the Wednesday the week prior to the established hearing dates. Notices which contain objection deadlines after the cut-off deadline will not be placed on that month's docket. All notices must include the actual date of the objection deadline. Objection deadlines set out merely as "20 days" will no longer be processed.

Note: Counsel are responsible for scheduling hearings using the calendar for Stays/Dismissals and Motions filed in Wichita. If counsel is uncertain to whom a case is assigned, clarification may be obtained from the PACER or VCIS information systems, or from the Clerk's Office.

WICHITA, KANSAS YEAR 2003
STAY/DISMISSAL DOCKET AND MOTIONS DOCKET CALENDAR INSTRUCTIONS

1. HEARING DATES AND TIMES

A. Stay/Dismissal Docket Day: The Court will conduct a docket for the purpose of hearing Motions For Relief From Stay and Motions To Dismiss (Chapter 13 cases only) on the second and fourth Wednesday of each month (Except as noted on the Wichita Stay/Dismissal Docket Day And Motions Docket Calendar For The Year 2003). Please refer to that calendar for hearing dates, times, and cut-off deadlines for **all motions for relief from stay and motions to dismiss a Chapter 13 case. [All hearings will commence at 9:00 a.m. on the Stay/Dismissal Docket Days, unless otherwise noted.]** Attendance by counsel is mandatory unless the parties submit an agreed Journal Entry to the Court at least one (1) business day prior to the hearing. Failure to appear may result in sanctions, the dismissal of your motion, or the granting of other default relief. Counsel who are prepared to state matters as resolved at the Stay Day docket will be provided an opportunity to make their announcement prior to commencement of the docket call. Counsel may be excused at that point, if they have no further pending matters scheduled to be brought before the court at that time.

C. Motions Docket Day: The Court will conduct the motions docket on the second Thursday of each month (Except as noted on the Wichita Docket Calendar for the Year 2003). Please refer to that motion calendar for hearing dates, times, and cut-off deadlines for all motions (with the exception of motions for relief from stay in any chapter and motions to dismiss in chapter 13 cases which should be noticed to the Stay/Dismissal Docket Day dates) and objections. All hearings will commence at the times set forth below, unless otherwise noted. Attendance by counsel is mandatory unless the parties submit an agreed Journal Entry to the Court at least one (1) business day prior to the hearing. Failure to appear may result in sanctions, the dismissal of your motion, or the granting of other default relief.

Chapter 7 motions will commence at **9:00 a.m.** **Chapter 11 and Chapter 12 motions** will commence at **10:30 a.m.** **Chapter 13 motions** will commence at **1:30 p.m.** In the event the 1:30 p.m. Chapter 13 docket is not concluded by 3:30 p.m., the Court will recess for fifteen minutes and reconvene promptly at 3:45 p.m.

2. PROCEDURE

In addition to the motion, counsel will also be required to prepare (1) a Notice form as set out in paragraphs A or B below, and (2) a Certificate of Service of the motion and notice to opposing counsel, the panel trustee, U.S. Trustee, and all parties required by the Rules to be noticed. The two types of notices are described below and sample forms are attached. For use in adversary proceedings, the forms must be modified to comply with Fed. R. Bankr. P. 7010.

(A.) NOTICE WITH OPPORTUNITY FOR NON-EVIDENTIARY HEARING

(Sample A): This form will be sent with a copy of the motion. It states that unless an objection is filed in writing with the Clerk of the U.S. Bankruptcy Court on or before the date of the objection deadline (date for filing objections may be calculated by allowing twenty (20) days from the date of mailing,

except where additional time is required; the actual date is to be reflected in notice), the motion will be granted by entry of an order to be prepared and submitted by counsel for movant within ten (10) days of the objection deadline. NO court hearing is necessary unless an objection is timely filed. If an objection is timely filed, the motion will be heard at the date and time shown on the notice, provided counsel has complied with all noticing instructions. No objection date may extend past the objection cut-off deadline as noted on the hearing calendar. Any untimely-filed objections will be brought to the Court's attention.

- (B.) NOTICE OF NON-EVIDENTIARY HEARING ON MOTION (Sample B):** This form will be sent with a copy of the motion, which places the matter directly on the motions docket. An objection deadline of at least seven (7) business days prior to the hearing date must be established and the specific date thereof set out within the notice. With this type of notice, the issue(s) will be heard unless an agreed journal entry is filed or the Court directs that the matter should be set for pre-trial or evidentiary hearing. Counsel for movant must give parties ten (10) clear working days notice prior to the motions docket, except where additional notice time is required by the Bankruptcy Code, the Fed. R. Bankr. P., or the Local Rules of Practice and Procedure. No objection deadline may extend past the objection cut-off deadline as noted on the hearing calendar, and no motion filed after the cut-off deadline will be placed on the docket for that month. Counsel for movant will be expected to appear for the scheduled hearing unless an agreed journal entry executed by all parties is submitted 24 hours in advance.

3. MOTIONS FOR RELIEF FROM STAY UNDER 11 U.S.C. § 362(d) / THIRTY DAY REQUIREMENTS OF 11 U.S.C. § 362(e)

Motions for Relief from Stay may be accompanied by a Notice With Opportunity for Non-evidentiary Hearing or a Notice of Non-evidentiary Hearing which places the matter directly on the court's motions docket. A motion for relief from stay may be combined with a request for adequate protection. The inclusion in the motion of a request for any other relief or the setting of such motion pursuant to D. Kan. LBR 9013.2 for a docket more than thirty (30) days from filing of the motion shall constitute a waiver of the thirty (30) day requirement of 11 U.S.C. § 362(e). Any hearing on a motion for relief from stay appearing on the Stay Day docket within such thirty (30) days shall be considered a preliminary hearing and movant's failure to request that the final hearing be concluded within thirty (30) days thereafter shall constitute a similar waiver.

Creditors seeking to shorten or eliminate the ten (10) day stay pursuant to Fed. R. Bankr. P. 4001(a)(3) should include in both their motion and proposed order a concise statement of the basis for shortening or eliminating the stay. The Court, as a matter of course, will not grant relief from the ten (10) day stay of execution on an Order Lifting Stay as is provided for in R. 4001(a)(3).

4. FILING REQUIREMENTS

Counsel shall file with the Clerk the original and two (2) copies of the motion, notice and certificate of service. All pleadings are to be sent for filing to: CLERK, U.S. BANKRUPTCY COURT, 167 U.S. Courthouse, 401 N. Market, Wichita, Kansas 67202. If a return copy is desired, counsel should provide an extra copy and a self-addressed, stamped envelope. Counsel are reminded that the required filing fees must accompany the motion. These procedures will have no effect on the filing fees required by 28 U.S.C. § 1930. No stipulated order will be accepted without the prior

filing of a motion. The attorney for the movant must amend and promptly notify all parties of any errors made in noticing of hearings of the docket calendar by filing the appropriate amended notice.

5. SUBMISSION OF ORDERS

All orders submitted to the Court for signature should include, just prior to signatories, the following: "Dated this ____ day of _____, ____." A hearing date should be included in the body of the order only if there has been an actual hearing. If the order is submitted on a matter noticed out with opportunity for hearing, no objections filed and no hearing held, the order should so recite. All orders must have the following information at the top of a page bearing only signatures: 1) Name of court; 2) Case caption, case number and chapter; and 3) Name or caption of the order and page number. The orderly administration of the Court's business requires that orders be promptly submitted and entered. Unless otherwise directed, orders are due ten (10) days from expiration of the objection deadline. Orders should be mailed to the Clerk, not to the Judge. The Clerk will monitor the timely submission of all orders and follow up on the same. Failure to submit Orders within ten (10) days will result in the Clerk's office issuing a "Notice Of Deadline for Submission of Order Due." Failure to comply with this guideline, L.B.R. 9074.1, and the Notice of Deadline may result in immediate dismissal of the matter in question, an order to show cause, or, where appropriate, other sanction.

6. NOTICING REQUIREMENTS

All notice and objection deadlines must comply with the requirements of the Bankruptcy Code, the Fed. R. Bankr. Procedure, and the Local Rules of Practice and Procedure. Reference to the following Fed. R. Bankr. P. will be helpful:

2002. Notices to Creditors, Equity Security Holders, United States, and U.S. Trustee.

(a.) Twenty-day Notices to Parties in Interest (all creditors, etc.).

(b.) Twenty -five day Notices to Parties in Interest (all creditors, etc.).

9006. Time. (a). Computations. (b.) Enlargement. (c). Reduction.

Appendix A to Bankruptcy Rules re: Time Frames Under the Fed. R. Bankr. P.

7. MISCELLANEOUS PROCEDURAL CONCERNS

(A). The name, address, telephone number and State Supreme Court number of each attorney shall be typed or printed under all signatures on any pleading submitted in this Court.

(B). Counsel are reminded that Rule 11 of the Federal Rules of Civil Procedure as is made applicable to bankruptcy applies to all pleadings. Attorneys signing pleadings that do not state a valid legal or factual basis may be subject to sanctions. "General denial" objections which contain no basis with the Court's denial of the relief requested by the movant are strictly discouraged.

(C). Counsel filing timely objections or responses in a divisional office other than the Wichita office will be required to serve a notice of continuance on parties if the objection is not received in Wichita by the Thursday prior to docket week.

(D.) A hard copy of the Wichita Stay/Dismissal Docket and Motions Docket dates and times may be obtained from the Bankruptcy Clerk's office in Wichita or printed from the Court's website (www.ksb.uscourts.gov).

Wichita, Kansas Year 2003
Stay/Dismissal Docket and Motions Docket Calendar Instructions

IT IS SO ORDERED.

/s/ ROBERT E. NUGENT
UNITED STATES BANKRUPTCY JUDGE

/s/ JANICE MILLER KARLIN
UNITED STATES BANKRUPTCY JUDGE